

# **EXHIBIT 5**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SANTEYA DANYELL WILLIAMS;           )  
MARY RUTH SCOTT; KAREN            )  
LATREECE COLEMAN; PRISCILLA       )  
BUNTON and ALYCE DENISE PAYNE,    )  
on behalf of themselves and all     )  
others similarly situated,            )  
  )  
                                  Plaintiffs,    )  
  )  
                                  vs.                )  
  )  
CITY OF ANTIOCH,                        )  
  )  
                                  Defendant.    )  
\_\_\_\_\_  
  )

NO. C08-02301 SBA

DEPOSITION OF ARNE SIMONSEN

WALNUT CREEK, CALIFORNIA

JUNE 16, 2009

REPORTED BY:

Cynthia Bynum Palmer

CSR NO. 3556

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SANTEYA DANYELL WILLIAMS; )  
MARY RUTH SCOTT; KAREN )  
LATREECE COLEMAN; PRISCILLA )  
BUNTON and ALYCE DENISE PAYNE )  
on behalf of themselves and )  
all others similarly situated,) )  
 )  
Plaintiffs, )  
 )  
vs. ) NO. C08-02301 SBA  
 )  
CITY OF ANTIOCH, )  
 )  
Defendants. )  
\_\_\_\_\_ )

Deposition of ARNE SIMONSEN  
taken on behalf of the plaintiffs  
at McNamara, Dodge, Ney, Beatty,  
Slattery, Pfalzer, Borges &  
Brothers, LLP, 1211 Newell Avenue  
Walnut Creek, California, beginning  
at 2:31 p.m. and ending at 4:58 p.m.  
on Tuesday, June 16, 2009, before  
Cynthia Bynum Palmer, CSR No. 3556

1  
2 APPEARANCES:

3  
4 FOR THE PLAINTIFFS:

5 LAWYERS COMMITTEE FOR CIVIL RIGHTS  
6 By: Oren M. Sellstrom, Esq.  
7 Kendra Fox-Davis, Esq.  
8 Priscilla Ocen, Esq.  
9 131 Steuart Street, Suite 400  
10 San Francisco, California 94105

11  
12 FOR THE DEFENDANT:

13 McNAMARA, DODGE, NEY, BEATTY, SLATTERY,  
14 PFALZER, BORGES & BROTHERS, LLP  
15 By: Thomas Beatty, Esq.  
16 1211 Newell Avenue  
17 Walnut Creek, California 94596  
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1 THE VIDEOGRAPHER: Good afternoon. Here begins  
2 the deposition of Mr. Arne Simonsen in the matter of  
3 Santeya Danyelle Williams, et al. versus the City of  
4 Antioch. This case is filed in the United States  
5 District Court, Northern California, and the case No. is  
6 C08-02301 SBA.

7 Today's date is June 16th, 2009, and the time is  
8 2:31 p.m. This deposition is taking place at McNamara,  
9 Dodge, Ney, Beatty, Slater (sic.) and Pfalzer, located at  
10 1211 Newell Avenue, Walnut Creek, California, 94596.

11 It is being taken on behalf of the plaintiffs.  
12 The reporter is Cindy Palmer appearing on behalf of  
13 U.S. Legal Support.

14 The videographer is Sean Grant, also appearing  
15 on behalf of U.S. Legal Support.

16 Counsel, please identify yourselves and state  
17 whom you represent.

18 MR. SELLSTROM: Oren Sellstrom for the  
19 plaintiffs.

20 MS. FOX-DAVIS: Kendra Fox-Davis for plaintiffs.

21 MS. OCEN: Priscilla Ocen, for the plaintiffs.

22 MR. BEATTY: Thomas Beatty for the defendant,  
23 and by the way, it's Slattery, S-l-a-t-t-e-r-y. Good  
24 Irish name.

25 THE VIDEOGRAPHER: Sorry. Thank you.

1           Would the reporter please swear in the witness.

2                       ARNE Simonsen,

3           having been first duly sworn, was examined and testified  
4           as follow:

5                       THE VIDEOGRAPHER: Counsel?

6                       EXAMINATION BY MR. SELLSTROM

7           Q           Good afternoon, Mr. Simonsen. Have you ever  
8           been deposed before?

9           A           No.

10          Q           And have you had a chance to review basic  
11          deposition practice with your counsel?

12          A           Yes.

13          Q           Let me go over some of the ground rules with you  
14          as well just so, we make sure we're all on the same page  
15          here.

16                       You understand that the oath that you just took  
17          requires you to testify truthfully and accurately?

18          A           Yes.

19          Q           All right. And, as you are doing, because the  
20          court reporter is taking down what you and I and anyone  
21          else says today, it's important that you speak audibly  
22          and then if your answer is yes, for instance, then you  
23          say "yes" instead of just nodding your head.

24                       Do you understand that?

25          A           Yes.

1       that's something that certainly is within their right to  
2       do.

3       Q           Okay. And you --

4       A           As a grievance against the government. Yeah.

5       Q           You mentioned the Quality of Life Forums.

6       A           Uh-huh.

7       Q           And that's -- that was an opportunity for you as  
8       a councilman to hear public comment on -- on what issues?

9       A           On any issue. It was essentially a town hall  
10      meeting where people could come and talk about anything  
11      they wanted, whether it was pot holes, road repairs, why  
12      isn't BART out in Antioch at this point, why are we  
13      brings in more businesses, why are we building too many  
14      houses, the whole thing, including those that got up and  
15      complaints about rental units and tenants and Section 8  
16      housing was mentioned at the same too.

17      Q           And so you recall hearing in those forums as  
18      well complaints from constituents about Section 8 voucher  
19      holders living in expensive houses?

20      A           Correct.

21      Q           And did you to your recollection in those forums  
22      ever make the point that you were making earlier in this  
23      deposition that just because somebody is living in an  
24      expensive home does not necessarily mean that they are  
25      being fraudulent in any way?

1 MS. FOX-DAVIS: It's in there now. I don't --

2 MS. SELLSTROM: Okay. It's one of the disks

3 that was marked yesterday that's -- that's in the

4 computer, and it's from the Quality of Life Forum IV and

5 starting -- do we know what it's starting at?

6 MS. FOX-DAVIS: Starting at about 22:04.

7 MR. SELLSTROM: Okay. Starting at approximately

8 22 minutes and four seconds into the disk.

9 THE WITNESS: Which was the date of this,  
10 please?

11 MR. SELLSTROM: January 27th.

12 MS. FOX-DAVIS: 2007.

13 MS. SELLSTROM: 2007.

14 THE WITNESS: Okay.

15 (Disk played.)

16 Q (By Mr. Sellstrom) Do you recall -- do you  
17 recall that forum?

18 A Now I -- now I do. It brings it back. I  
19 remember that was the one that was over at the  
20 Nick Rodriguez Center I believe it was. Yeah.

21 Q Okay. Do you recall making that statement  
22 that's reflected in the tape we just saw?

23 A Uh-huh. Now that I've been refreshed watching  
24 myself. Absolutely.

25 Q Yes, and that's why we brought it here, to do



1       that.

2               That suggests civil disobedience in terms of  
3       standing up and saying we won't accept Section 8 people  
4       living in homes that have pools, Jacuzzis, and so forth?

5       A           Yes, and actually civil disobedience has been  
6       the hallmark of American society, and you learn that from  
7       a lot of good civil rights leaders.

8       Q           And what is -- civil disobedience means to you  
9       going against the law because it's something that you  
10      don't believe in? Is that -- or let -- is that an  
11      accurate way to say that?

12      A           It would depend on what the law you're trying  
13      to -- you know, civil disobedience could be in this case  
14      here is saying, you know, there are people that are  
15      upset. Is this is the right way to have this program,  
16      you know.

17               The objective there was to get the state or the  
18      federal government to be able to look at the program,  
19      what is the requirements of the program to get it --  
20      maximum use of the program to as many people as possible,  
21      and use the money wisely, and is it appropriate as I was  
22      in Military housing which was four walls and a roof and a  
23      bathroom and we didn't have swimming pools, hot tubs, and  
24      all the other stuff that comes along with it and,  
25      frankly, saying we should give the basic shelter to give

1       these people and their families a safe place to live to  
2       give them a helping hand up, and if it requires civil  
3       disobedience to get the federal government or the state  
4       government to change the law so that we can maximize this  
5       program for as many people as possible, sure, that's --  
6       that's what I would call civil disobedience.

7       Q           And is it fair that to say that that suggestion  
8       by you that the city should engage in civil disobedience  
9       was born out of frustration with the issues that you were  
10      hearing from your constituents about the Section 8  
11      program?

12     A           The city wouldn't be doing the civil  
13     disobedience. It was the individuals that you're  
14     referring to. The city is not a Housing Authority. The  
15     city has no control over the Housing Authority over the  
16     HUD Housing Choice Voucher Program, and all we do is  
17     individuals and those were individual residents as I  
18     pointed out. Ellen Tauscher was our Congress person.  
19     Well, not for much longer I guess, and she has been very  
20     responsive to -- at that time to the concerns that were  
21     being brought up by residents in the city of Antioch that  
22     yes, there may be some changes that need to be made in  
23     the program, and that's what I was advocating for, was  
24     changes, but the city of Antioch can't civilly -- you  
25     know, do any civil disobedience as a city or as a

1 That's -- that's individuals.

2 Q Right.

3 A Yeah.

4 Q And you -- but in answer to my question, did  
5 you -- were you concerned that issues of race were a part  
6 of the discussion that was happening at the  
7 Quality of Life Forums?

8 A Yes. I was very uncomfortable with it.

9 Q What -- were there specific comments that made  
10 you very uncomfortable?

11 A I grew up in San Francisco, which was a very  
12 cosmopolitan city, and in Daly City, and I didn't know  
13 what racism was and prejudice was until I was in the Navy  
14 and transferred to Baltimore, Maryland for a school when  
15 I was exposed to something outside of California, and I  
16 didn't know what was wrong with these people, so to me as  
17 someone who grew up not knowing what racism was or  
18 prejudice as the term as being prejudiced against races  
19 or even religions for that matter, I was -- I was more  
20 like "What's wrong with you people? I don't understand  
21 that," you know, and I'm that way to this very day.  
22 There are some people that are just plain pure bigots,  
23 and I feel sorry for 'em. That's reality.

24 Q And you had concerns that some of those issues  
25 were being raised at the Quality of Life Forum?

1 everything they did? No, because my employee is the city  
2 manager and the city attorney. I don't meddle in the  
3 departments, if there are things I have concerns about  
4 with those departments I'll either go to the city manager  
5 or go to the city attorney with those concerns, you know.

6 Q Is it fair to say that, umm, nothing that you  
7 heard or saw about the CAT team raised concerns that  
8 caused you to go to the city manager with those concerns?

9 A Not until closed session when the city attorney  
10 advised us there was potential litigation. Yeah.

11 Q You had testified earlier about the -- some of  
12 the comments and the tenor of the Quality of Life Forums  
13 that gave you some discomfort because of racial overtones  
14 I believe you said.

15 A Uh-huh.

16 Q Umm, did that -- did that concern you that those  
17 same, umm, issues could infiltrate a complaint-driven  
18 process as -- which is as you viewed the CAT team?

19 MR. BEATTY: Vague -- vague and ambiguous.

20 THE WITNESS: Yeah. I don't understand the --  
21 the last portion of your question.

22 Q (By Mr. Sellstrom) That -- I mean you testified  
23 that -- is that a -- do you have a concern that in a  
24 complaint-driven process that's reactive that there is  
25 the possibility that bias can infect that process?

1 State of California )

2 County of Sacramento )

3  
4 I, CYNTHIA BYNUM PALMER, CSR, hereby certify  
5 that the witness in the foregoing deposition was by me  
6 duly sworn to testify to the truth, the whole truth, and  
7 nothing but the truth in the within-entitled cause; that  
8 said deposition was taken at the time and place herein  
9 named; that the deposition is a true record of the  
10 witness's testimony as reported to the best of my ability  
11 by me, a duly Certified Shorthand Reporter and  
12 disinterested person, and was thereafter transcribed  
13 under my direction into typewriting by computer; that the  
14 witness was given an opportunity to read, correct, and  
15 sign the deposition.

16 I further certify that I am not interested in  
17 the outcome of said action nor connected with nor related  
18 to any of the parties in said action nor to their  
19 respective counsel.

20 IN WITNESS WHEREOF, I have hereunder subscribed  
21 my hand this 27<sup>th</sup> day of June, 2009.

22  
23   
24 CYNTHIA BYNUM PALMER, CSR 3556  
25